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**Filed**  
 JUL 07 2009  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE  
*Lee Fil*

BY FAX

(Additional Counsel Appear on Signature Page)

*Attorneys for Plaintiff and all others Similarly Situated*

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION**

RootZoo, Inc., individually, and on  
 behalf of all others similarly situated,

Plaintiff,

v.

FACEBOOK, INC., and DOES 1  
 through 10 inclusive,

Defendants.

**CLASS ACTION COMPLAINT for:**

- (1) Breach of Contract; and
- (2) Violation of Bus. & Prof. Code  
 §17200, *et seq.* – “Unlawful,”  
 “Unfair” and “Fraudulent”  
 Business Practices.

**JURY TRIAL DEMANDED**

1 Plaintiff, RootZoo, Inc., ("Plaintiff"), individually and on behalf of the Class  
2 described below, by its attorneys, makes the following allegations based upon  
3 information and belief, except as to allegations specifically pertaining to Plaintiff  
4 and its counsel, which are based on personal knowledge. Plaintiff brings this  
5 action for damages and injunctive relief against defendant Facebook, Inc.  
6 ("Facebook" or "defendant"), demanding a trial by jury.

### 7 NATURE OF THE ACTION

8 1. Plaintiff brings this class action against Facebook to recover damages  
9 and other relief available at law and in equity on behalf of itself as well as on  
10 behalf of the members of the following Class:

11 *All persons or entities in the United States who paid*  
12 *Facebook for PPC (pay-per-click) advertising through*  
13 *Facebook's Performance Advertising Platform.*

14 2. This action arises from the Facebook's two distinct deceptive business  
15 practices: charging Plaintiff and members of the Class for clicks that never  
16 occurred; and for failing to properly guard against clicks that result from abusive  
17 practices by third parties referred to as "click fraud."

### 18 THE PARTIES

19 3. Plaintiff, RootZoo, Inc, is a corporation organized under the laws of  
20 the state of Delaware with its principal place of business in Manhattan, New York.  
21 RootZoo, Inc., owns and operates RootZoo.com , a social networking website  
22 designed to facilitate the discussion of sports. Plaintiff contracted with Facebook  
23 and paid for advertising on Facebook.com on a "pay-per-click" basis.

24 CLASS ACTION COMPLAINT

4. Plaintiff is informed and believes and thereon alleges that defendant Facebook is a corporation organized under the laws of the state of California with its principal place of business in Palo Alto, California. Facebook is, and at all times relevant hereto was, authorized to do business in California.

5. Plaintiff does not know the true names or capacities of the persons or entities sued herein as DOES 1 to 10, inclusive, and therefore sues such defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the DOE defendants is in some manner legally responsible for the damages suffered by Plaintiff and the members of the Class as alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of these defendants when they have been ascertained, along with appropriate charging allegations, as may be necessary.

## JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d) in that this is a civil action filed under Rule 23 of the Federal Rules of Civil Procedure and members of the class are citizens of States different from defendant, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d)(2), (6).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a) and (c) in that Facebook resides in this district and a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of California.

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## CLASS ACTION COMPLAINT

**FACTUAL BACKGROUND**

8. Facebook is a social networking website with the URL, [www.facebook.com](http://www.facebook.com). Registration is free and registered users can create profiles on Facebook.com, which entitle users, among other things, to post photos, to list personal interests, to exchange private or public messages, and to join networks of groups of friends organized by location, workplace, school, and region. Users can also freely add individuals to their network of "Facebook friends" and send them messages, and "update" their personal Facebook page to notify friends about themselves.

9. According to industry statistics, Facebook is the leading social networking site in the World based on monthly unique visitors, having attracted 132 million unique visitors in June 2008. Facebook also claims to have more than 200 million active users. In the United States, there are more than 70 million active users.

10. Facebook boasts that it is a social utility "that helps people communicate more efficiently with their friends, family and coworkers. The company develops technologies that facilitate the sharing of information through the social graph, the digital mapping of people's real-world social connections." For most, Facebook is just that: a digital platform for socialization. For Facebook, however, providing that socialization allows it to garner revenue for advertising on a variety of advertising platforms.

11. Facebook's revenues are generated in part from its sale of advertising through its "Performance Ad System" advertising platform.

1           12. Facebook permits advertisers to select demographic and other data  
2 provided by the Facebook user on his/her respective Facebook page, such as city,  
3 gender, age, relationship status, employer, educational level, political views,  
4 interests, languages and “keywords.”

5           13. Facebook then uses this information to deliver advertisements on the  
6 user’s Facebook page that match the criteria selected by advertisers to target  
7 Facebook users.

8           14. Facebook’s Performance Ad System permits advertisers to contract  
9 with Facebook based on either on a “Pay-per-click” (“PPC”) model or a “Pay-per-  
10 impression” (“CPM”) model.

11           15. Under Facebook’s PPC model, advertisers are charged a fixed amount  
12 each time a user clicks on an advertiser’s website or Facebook page which results  
13 in the user being directed from Facebook to the advertiser’s independent web site.

14           16. Under Facebook’s CPM model, advertisers are charged based on how  
15 many times the advertiser’s advertisement is made available for viewing by the  
16 Facebook user.

17           17. As part of the advertising contractual process with Facebook,  
18 Facebook requires the advertiser to provide a maximum PPC bid (how much they  
19 are willing to pay per click – the minimum being \$0.01). Advertisers bid based on  
20 how much an advertiser is willing to pay for each click on the advertisement.

21           18. Facebook sets the amount that it will charge per click based on a bid  
22 algorithm that it does not disclose to its customers.

1        19. An advertiser is required to set a “Daily Budget” in which the  
2 advertisers will not pay more than the budgeted amount for the clicks in a twenty-  
3 four hour period.

4        20. Customers who wish to advertise with Facebook are presented with a  
5 “Terms and Conditions” agreement (the “Agreement”) to which they must indicate  
6 their consent. The Agreement obligates the advertiser to pay Facebook for clicks  
7 as determined solely by Facebook and irrespective of whether these clicks are  
8 legitimate clicks or the result of a person or “bot” (a software application that  
9 performs an automated task) clicking on the advertiser’s ad for other reasons.

10 **A. Facebook Charges Plaintiff and the Class for Clicks That Never**  
11 **Occurred.**

12        21. There are two main technological approaches advertisers employ for  
13 tracking clicks to their websites. The primary method, logfile analysis, uses  
14 software, such as Google Analytics or Stat Counter, to read the logfiles in which  
15 the web server for a website records all of its transactions. The second method,  
16 page tagging, uses JavaScript on each page to notify a third-party server when a  
17 page is rendered by a web browser. Both collect data that can be processed to  
18 produce web traffic reports.

19        22. Facebook advertisers have repeatedly complained directly to  
20 Facebook, and in group discussions on the Internet that Facebook monitors, that  
21 based on the advertisers’ web site traffic tracking data, Facebook is charging  
22 advertisers for clicks that never occurred.

1       23. Facebook has refused to take any action in response to these  
2 complaints nor has Facebook made available any of its internal data that would  
3 allow advertisers to understand the basis for the clicks on the advertisers'  
4 advertisements which Facebook claims to have occurred.

5       24. Unlike other websites that sell advertising on a PPC model, such as  
6 Yahoo! or Google, nowhere on Facebook's website does it provide any  
7 information on the methods or practices it employs to track clicks on  
8 advertisements that appear on its web site.

9       25. The below are examples of complaints from Facebook advertisers  
10 found on the website, [www.Wickedfire.com](http://www.Wickedfire.com), regarding Facebook's charging  
11 advertisers for clicks that never occurred:

12           Tracking 202 [a tracking device] is telling me 11 clicks....Facebook is telling me  
13 145. That's way off the 15-20%, is there a different margin for tracking 202 than  
14 there is prosper 202 or did I suffer from one of those click bots?

15           Sucks how high the numbers are today. Its clear the problem is getting worse  
16 daily. I've moved most of my [ads] off facebook for the time being and magically  
17 my [data] is all positive again. Crazy how that works. There are lots of places to  
18 buy traffic, some that will even actually give you the traffic you are paying for.  
19 Facebook is never going to admit to whats going on. I can almost guarantee you  
20 that.

21           Facebook is still reporting 20% more clicks than I actually get. This is [bs]. If I  
22 were at least getting bot traffic or something that would be one thing, but right  
23 now Facebook is simply stealing 20% of clicks that I paid for, which adds up to  
24 thousands of dollars. Someone should threaten legal action, this is straight up  
fraud on Facebook's part.

          FB click fraud update: ratio is now EXACTLY 10:1. 10 clicks reported on FB, 1  
click on prosper. No, this wasnt on a small scale either. Were talking 1000's of  
clicks. Have fun facebook. Im checking out till you can fix this [problem].

          I'm targeting small, specific demos, Facebook reports exactly twice as many  
clicks as hit my [destination page]. Facebook is stealing our money.....

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CLASS ACTION COMPLAINT

1 This is experienced by not just those that use 202. When in doubt, look at your  
2 raw apache logs - which I did. The result: 15% - 20% clicks never make it to my  
3 [Destination Page]. Clearly a case of click-fraud going on. Tested on 3 different  
4 servers at 3 different DCs (not a network issue).

5 **B. Facebook Does Not Adequately Guard Against Click Fraud Despite**  
6 **Knowledge of its Existence.**

7 26. "Click fraud" is a term in the Internet advertising industry used to  
8 describe clicks on an advertisement with no intention of doing business with the  
9 advertiser and for some purpose other than that contemplated by the advertisement.  
10 The use of the word "fraud" can be a bit misleading, since the word is not used as  
11 is understood at common law. Instead the industry uses the term "click fraud"  
12 colloquially to simply describe purposeful clicks on advertisements by persons or  
13 software other than a potential customer.

14 27. The perpetrators of fraudulent (or invalid) clicks in connection with  
15 Facebook's Performance Advertising Platform often consist of actual competitors  
16 of the advertiser who simply wish to exploit the defects in Facebook's PPC  
17 advertising model in order to increase the fees that their competitor is paying for  
18 advertising and/or to boost the effectiveness of their own ads (given that Facebook  
19 employs a daily budgeting system, "using-up" a competitor's budget in the  
20 beginning of a twenty-four hour period means that the competitor's ads will not be  
21 competing with other competitors).

22 28. Facebook garners revenue from click fraud since it charges advertisers  
23 for each click without employing any means to determine whether any click is the  
24 result of a valid or improper purpose.

1        29. Click fraud can be prevented and/or greatly minimized by tracking the  
2 use of a pay-per-click advertisement, including the identity and/or source of those  
3 clicking on the advertisement/link and the frequency of such activity. Such  
4 tracking can be accomplished by, among other things, computer programs that  
5 count the number and timing of clicks originating from a single source.

6        30. Many of the websites that compete with Facebook for the sale of PPC  
7 advertising, such as Yahoo! and Google, provide extensive information on their  
8 websites regarding their efforts to detect and minimize click fraud. In contrast,  
9 nowhere on Facebook's website is there any information on its efforts to detect and  
10 minimize click fraud. Nor does Facebook warn its existing and potential  
11 customers about the existence, and prevalence, of click fraud on its website despite  
12 its keen awareness of the issue.

13        31. Furthermore, when its advertising customers suspect that they have  
14 become the victims of click fraud, Facebook fails to (a) advise them that they have  
15 been victimized, and (b) to refund them the excess charges that they have incurred  
16 as a result of the improper click activity. Facebook derives the same amount of  
17 income from an improper click as it does from a legitimate click.

18        32. While Facebook does provide advertisers with statistics regarding the  
19 numbers of users who allegedly clicked on an advertisement, it will not disclose  
20 information to advertisers that would allow advertisers to ascertain whether the  
21 clicks were legitimate. Advertisers are forced to accept Facebook's representation  
22 without any ability to verify the information that Facebook provides.

1        33. Facebook's unwillingness to police and to prevent click fraud is  
2 especially egregious given that it is uniquely in a position to exercise that function.  
3 More egregious still, is the fact that Facebook's complicity in click fraud is not  
4 limited to inaction. Facebook has actually created an environment that fosters  
5 click fraud as it makes access to its community, and therefore the ability to commit  
6 click fraud on its web site, extraordinarily easy such that fraudsters are able to  
7 create thousands of fake profiles in order to gain access to Facebook  
8 advertisements.

9  
10 **C. Plaintiff, Just Like Thousands of Others, Has Been Charged Both for**  
11 **Non-Existent Clicks and for Clicks Resulting from Facebook's Failure**  
12 **To Police Click Fraud**  
13

14        34. RootZoo.com, is a social networking website for sports fans. In  
15 approximately November 2007, Plaintiff, as the owner and operator of  
16 RootZoo.com, entered into a contract with Facebook for the placement of PPC  
17 advertisements on Facebook.com.

18        35. During the period November 2007 to early June 2008, Plaintiff  
19 contracted with Facebook for PPC advertisements. During that period, Plaintiff  
20 accepted Facebook's accounting for clicks from Facebook.com to RootZoo.com  
21 without cross-checking against RootZoo.com's click- tracking software.

22        36. On or about June 3, 2008, Plaintiff received a statement from  
23 Facebook that showed that Facebook had charged Plaintiff for 804 clicks on June  
24

1 2, 2008. Plaintiff utilizes two industry leading software programs that track the  
2 number of clicks to its website and, just as importantly, from where the clicks to  
3 RootZoo.com originated. Plaintiff's tracking software programs showed that  
4 approximately 300 clicks were generated from its advertisement on Facebook.com  
5 to RootZoo.com.

6 37. On June 3, 2008, Plaintiff contacted Facebook to report this material  
7 discrepancy and to request a refund for clicks that never occurred. On June 6,  
8 2008, pursuant to Facebook's request, Plaintiff provided Facebook with data from  
9 its two software programs that showed the discrepancy between what were the  
10 actual number of clicks and the number of clicks for which Facebook was  
11 charging.

12 38. On June 9, 2008, Facebook emailed Plaintiff and reported,  
13 "[a]ccording to our engineers, the clicks being reported within your Facebook  
14 account are accurate."

15 39. Plaintiff requested that Facebook provide it with a copy of the logs  
16 demonstrating that clicks for which Plaintiff was being charged were indeed actual  
17 clicks. On June 10, 2008, Facebook refused to provide any back up supporting  
18 documentation that would substantiate its position.

19 40. Plaintiff also requested that Facebook refund back charges for clicks  
20 that never occurred. Facebook refused to refund any charges or provide any  
21 credits.

22 41. In the course of investigating the situation involving charges for  
23 nonexistent clicks, Plaintiff also discovered that it was receiving hundreds of clicks  
24

1 from small towns on a daily basis during period April-May 2008 that that would  
2 almost be statistically impossible given the distribution of the American population  
3 and Plaintiff's prior history with Facebook advertisements.

4 42. Again, Plaintiff reported the discrepancy to Facebook and provided  
5 tracking data to support its claim that it was being charged for fraudulent or  
6 improper clicks.

7 43. On June 18, 2009, Facebook wrote to Plaintiff, "[w]e've been  
8 continuing to look into this on our side, and so far have found that you've only  
9 been billed for valid clicks on your ads, which match the stats reported to you in  
10 your ads account. We're currently not able to offer you a refund for any of these  
11 charges."

12 44. Facebook has never refunded any monies to Plaintiff.  
13

#### 14 CLASS ACTION ALLEGATIONS

15 45. Plaintiff bring this nationwide class action on behalf of itself and a  
16 Class defined as follows:

17 *All persons or entities in the United States who paid*  
18 *Facebook for PPC (pay-per-click) advertising through*  
19 *Facebook's Performance Advertising Platform.*

20 46. Excluded from the Class are governmental entities, Defendants, any  
21 entity in which Defendants have a controlling interest, and Defendants' officers,  
22 directors, legal representatives, successors, subsidiaries, and assigns. Also  
23

1 excluded from the Class is any judge, justice, or judicial officer presiding over this  
2 matter and the members of their immediate families and judicial staff.

3 47. Plaintiff reserves the right to modify the Class description and the  
4 Class period based on the results of discovery.

5 48. Plaintiff and the Class bring this action for equitable, injunctive and  
6 declaratory relief pursuant to subdivisions (b)(1), (b)(2) and (b)(3) of Rule 23 of  
7 the Federal Rules of Civil Procedure.

8 49. Numerosity: The proposed Class is so numerous that individual  
9 joinder of all its members is impracticable. Plaintiff does not presently know the  
10 exact number of class members. Due to the nature of the trade and commerce  
11 involved, however, Plaintiff believes that the total number of Class members is at  
12 least in the thousands.

13 50. Common Questions of Law and Fact Predominate: Facebook has  
14 acted, with respect to the Class, in a manner generally applicable to each Class  
15 member. There is a well-defined community of interest in the questions of law and  
16 fact involved in the action, which affect all Class members. There are many  
17 questions of law and fact common to the Representative Plaintiff and the Class,  
18 and those questions substantially predominate over any questions that may affect  
19 individual Class members. The questions of law and fact common to the Class and  
20 which predominate over any questions affecting only individual members include,  
21 but are not limited to, the following:

- 22 a. the construction of the form Agreement between  
23 Facebook and the Class;

b. whether Facebook breached its Agreement with the Class;

c. whether Facebook breached the covenant of good faith and fair dealing;

d. whether Facebook has taken adequate measures to prevent improper clicks on advertisements on its website;

e. whether Facebook has taken adequate measures to properly track actual clicks;

e. whether Facebook has properly accounted and for and refunded fees it has wrongfully collected from Class members;

f. whether Facebook engaged in unfair business practices likely to deceive Plaintiff and the Class members before and during the contractual period; and

g. whether Plaintiff and the members of the Class have been damaged by the wrongs complained of herein, and if so, the measure of those damages and the nature and extent of other relief that should be afforded.

51. Typicality: Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class have been similarly affected by Defendant's common course of conduct since they were all forced to pay for either non-existent and/or fraudulent clicks and thus all were harmed in substantially the same way by Defendant's actions.

1       52.    Adequacy of Representation: Plaintiff will fairly and adequately  
2 represent and protect the interests of the Class. Plaintiff is committed to  
3 prosecuting this action and has retained competent counsel with substantial  
4 experience in prosecuting complex and class action litigation. Plaintiff and its  
5 counsel are committed to vigorously prosecuting this action on behalf of the Class,  
6 and have the financial resources to do so. Neither Plaintiff nor its counsel has any  
7 interests adverse to those of the Class.

8       53.    Superiority of a Class Action: Plaintiff and the members of the Class  
9 suffered, and will continue to suffer, harm as a result of Facebook's unlawful and  
10 wrongful conduct. A class action is superior to other available methods for the fair  
11 and efficient adjudication of the present controversy. Individual joinder of all  
12 members of the class is impractical. Even if individual class members had the  
13 resources to pursue individual litigation, it would be unduly burdensome to the  
14 courts in which the individual litigation would proceed. Individual litigation  
15 magnifies the delay and expense to all parties in the court system of resolving the  
16 controversies engendered by Defendant's common course of conduct. The class  
17 action device allows a single court to provide the benefits of unitary adjudication,  
18 judicial economy, and the fair and equitable handling of all Class members' claims  
19 in a single forum. The conduct of this action as a class action conserves the  
20 resources of the parties and of the judicial system, and protects the rights of the  
21 Class members. Furthermore, for many, if not most, Class members, a class action  
22 is the only feasible mechanism that allows them an opportunity for legal redress  
23 and justice.

1        54. Adjudication of individual Class members' claims with respect to the  
2 Defendant would, as a practical matter, be dispositive of the interests of other  
3 members not parties to the adjudication, and could substantially impair or impede  
4 the ability of other Class members to protect their interests.

5                                    **FIRST CAUSE OF ACTION**

6                                    **BREACH OF CONTRACT**

7        55. Plaintiff realleges the preceding paragraphs as if fully set forth herein  
8 and, to the extent necessary, pleads this cause of action in the alternative.

9        56. Facebook entered into identical contracts with Plaintiff and the  
10 members of the Class.

11        57. The Agreements contain and contained an implied covenant of good  
12 faith and fair dealing that Facebook would not do anything that would have the  
13 effect of injuring the rights of Plaintiff and the Class to receive the benefits of the  
14 contract.

15        58. Facebook breached its contracts with Plaintiff and the Class, and the  
16 covenant of good faith and fair dealing, by collecting fees from Plaintiff and  
17 members of the Class for non-existent clicks and for improper clicks even though  
18 Facebook knew, or should have reasonably known, that the clicks were not "actual  
19 clicks" but rather purposeful clicks made for an improper purpose. Facebook  
20 further breached its contract with Plaintiff and the Class by failing to implement  
21 effective oversight, investigating oversight and prevention of click fraud.

22        59. As a direct and proximate result of Facebook's breach of contract,  
23 Plaintiff and the Class have been damaged in an amount to be determined at trial.

24                                    CLASS ACTION COMPLAINT

1 WHEREFORE, Plaintiff and the Class pray for relief as set forth below.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**

4 **CODE §§17200 et seq.**

5  
6 60. Plaintiff realleges the preceding paragraphs as if fully set forth herein,  
7 and, to the extent necessary, pleads this cause of action in the alternative.

8 61. Plaintiff has standing to pursue this claim as Plaintiff has suffered  
9 injury in fact and has lost money or property as a result of Facebook's actions as  
10 delineated herein.

11 62. Facebook's actions, as alleged in this Complaint, constitute an unfair  
12 or deceptive practice within the meaning of California Business and Professions  
13 Code section 17200 in that Facebook's actions are unfair, unlawful and/or  
14 fraudulent.

15 63. Facebook's business practices, as alleged herein, are unfair because  
16 they offend established public policy and/or are immoral, unethical, oppressive,  
17 unscrupulous and/or substantially injurious to its customers in that Facebook: (a)  
18 fails to employ any reasonable method to track fraudulent clicks; (b) fails to inform  
19 its customers that it does not employ any reasonable method to track fraudulent  
20 clicks; (c) charges customers for non-existent clicks; and (d) charges customers for  
21 invalid clicks.

22 64. Facebook's business practices, as alleged herein, are unlawful because  
23 the conduct constitutes a breach of the Agreement.

24 

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CLASS ACTION COMPLAINT

65. Facebook's business practices are fraudulent because they charge advertisers for clicks that are non-existent and because the business practices are likely to deceive its customers into believing that they will not be charged for "invalid" clicks, when in fact, Facebook routinely charges its customers for clicks that it knows, or by the exercise of reasonable care, should know are not clicks that originate from potential customers who actively and legitimately chose the advertiser's link.

66. Facebook's alleged wrongful business acts constituted, and constitute, a continuing course of conduct of unfair competition.

67. Facebook's business acts and practices, as alleged herein, have caused injury to Plaintiff and the Class.

68. Pursuant to section 17203 of the California Business and Professions Code, Plaintiff and the Class seek an order of this Court enjoining Facebook from continuing to engage in unlawful, unfair, or deceptive business practices and any other act prohibited by law, including those acts set forth in this Complaint.

69. Plaintiff and the Class also seek an order requiring Facebook to disgorge all ill-gotten gains and full restitution of all moneys it wrongfully obtained from Plaintiff and the Class.

WHEREFORE, Plaintiff and the Class pray for relief as set forth below

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff and members of the Class request that the Court enter an order or judgment against the Defendants as follows:

## CLASS ACTION COMPLAINT

1. Certifying the proposed Class and ordering notice thereto to be paid by Defendants;

2. Adjudging and decreeing that Defendants have engaged in the conduct alleged herein;

3. Ordering restitution and disgorgement on certain causes of action;

4. Issuing an injunction ordering Defendants to cease and desist from engaging in the unfair, unlawful, and/or fraudulent practices alleged in this Complaint;

5. Awarding compensatory and general damages according to proof on certain causes of action;

6. Awarding special damages according to proof on certain causes of action;

7. Awarding both pre and post-judgment interest at the maximum allowable rate on any amounts awarded;

8. Awarding costs of the proceedings herein;

9. Awarding reasonable attorneys fees as allowed by statute; and

10. Any and all such other and further relief that this Court may deem just and proper.

DATED: July 7, 2009

SEEGER WEISS LLP

BY:

Jonathan Shub

## CLASS ACTION COMPLAINT

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury on all issues so triable.

DATED: July 7, 2009

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CLASS ACTION COMPLAINT